

# News from the FPPC

California Fair Political Practices Commission  
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## **Supreme Court Rules For FPPC In Tribal Disclosure Case**

In a landmark legal victory for California voters and the Fair Political Practices Commission, the California Supreme Court on Thursday (December 21) upheld the right of the FPPC to sue the Agua Caliente Band of Cahuilla Indians for failing to disclose the tribe's contributions to political campaigns and its lobbying activities. FPPC Chair Liane Randolph called the decision an "important and needed victory for California voters, including voters who are members of tribes."

The Supreme Court voted 4-3 to affirm a 2004 ruling by the 3rd District Court of Appeal in favor of the FPPC.

In a majority opinion written by Justice Chin, the state Supreme Court stated, "Tribal members, as citizens of the United States, are allowed to participate in state elections. Allowing the Tribe immunity from suit in this context would allow tribal members to participate in elections and make campaign contributions (using the tribal organization) unfettered by regulations designed to ensure the system's integrity. Allowing tribal members to participate in our state electoral process while leaving the state powerless to effectively guard against political corruption puts the state in an untenable and indefensible position without recourse."

FPPC Chair Liane Randolph called the ruling "an extremely important decision that upholds the right of California to run its own elections and, under political reform laws passed by California voters, require detailed disclosure of campaign contributions and lobbying activity."

"Today's landmark Supreme Court ruling is an important and needed victory for California voters, including voters who are members of tribes. The Supreme Court agreed with the Court of Appeal that the State of California has the constitutional right to run its own elections. As we said after the Court of Appeal decision, in exercising that right the

voters of the state have chosen to require that campaign contributions be limited and fully disclosed. Every other participant in our political system must follow the rules of the Political Reform Act. Today, the Supreme Court affirmed that the tribes must also follow those rules,” Randolph added.

The court’s decision is available on its website at:

<http://www.courtinfo.ca.gov/opinions/documents/S123832.DOC>

The decision is also available on the FPPC’s website at [www.fppc.ca.gov](http://www.fppc.ca.gov) – go to “litigation” on the left side of the home page.

The suit alleges that the tribe made contributions of more than \$7.5 million to California candidates and political committees between Jan. 1 and Dec. 31, 1998, but did not file major-donor reports disclosing that activity until late 2000. The commission also contends in the suit that the tribe failed to timely disclose more than \$1 million in late contributions, and that it failed to disclose information about its lobbying activities.

The suit was originally filed in Sacramento Superior Court on July 31, 2002, and later amended to add additional claims. On Jan. 27, 2003, in an historic ruling which rejected the tribe’s claims of sovereign immunity in the case, Judge Loren McMaster ruled in favor of the FPPC and denied the tribe’s motion to dismiss the lawsuit. McMaster also ruled that the FPPC has enforcement jurisdiction over the tribe.

The tribe filed a petition on April 7, 2003, asking the 3rd District Court of Appeal to overturn McMaster’s ruling. The appellate court dismissed the petition on April 24, returning the case to the trial court. The tribe then filed a petition for review by the state Supreme Court. On July 23, the Supreme Court ordered the case returned to the state appellate court for hearing. On March 3, 2004, the Court of Appeal denied the tribe’s appeal of the Superior Court ruling in favor of the FPPC.

Representing the FPPC on tribal sovereignty issues is Sacramento attorney Charity Kenyon of Riegels Campos & Kenyon LLP. The case is also handled for the FPPC by Enforcement Division Chief William L. Williams Jr., with assistance from FPPC General Counsel Luisa Menchaca and other staff counsel.

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